IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.09.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Habeas Corpus Petition No.922 of 2007

Malarmathi ... Petitioner

vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.

2. The District Collector and
District Magistrate Kancheepuram District,
Kancheepuram District. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the entire records releted to petitioner husband's detention under Tamilnadu Act 14 of 1982 vide detention order, dated 25.4.2007 on the file of the second respondent herein, made in proceedings BDFGISSV No.25/2007, quash to same as illegel and consequently direct the respondents herein to produce the petitioner's husband namely Baskaran @ Keeri Baskar before this Hon'ble Court and set the petitioner's husband detained at Central Prison, chennai at liberty from detention.

For Petitioner : Mr.C.C.Chellappan
For Respondents : Mr.P.Kumaresan,
Additional Public Prosecutor.

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O R D E R

(Delivered by R.REGUPATHI, J.)

The petitioner, by name Malarmathi, challenges the impugned order of detention, dated 25.04.2007, detaining her husband by name Baskaran @ Keeri Baskar as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. The order of detention, dated 25.04.2007, came to be passed on the basis of the ground case in Crime No.177 of 2007, for alleged commission of offences under Sections 341, 506 (ii) and 394 IPC. The allegation is that, on 25.03.2007, at 13.00 Hours, one Gouse Basha/complainant, an Auto Driver, was returning to Kancheepuram via Olimohammedpettai Junction Road and at that time, the detenu intercepted and waylaid his Auto near the Mosque. On the complainant questioning the act of the detenu, he pulled the shirt collar of the complainant and demanded the money he was having in his pocket. The complainant refused to give the money and the detenu took out a knife and, placing it on the neck of the complainant, threatened him and relieved of Rs.250/- from his shirt pocket. The complaint obstructed and some of the persons available there tried to catch the detenu, however, by showing knife, he slipped away. Due to his violent activities, the normalcy in the area was disrupted and the general public scattered here and there under the grip of panic. On receipt of complaint from the said Gouse Basha, the case, as referred to above, came to be registered on the file of Siva Kanchi Police Station. On 30.03.2007, at 17.00 Hrs., the Inspector of Police arrested the detenu at Kancheepuram Avakuttai near Kannikoil. The Detaining Authority, taking note of eight adverse cases pending against the detenu and considering his activities, prejudicial to the maintenance of public order, passed the detention order against him.

3. In this Petition, the petitioner seeks for the issuance of a writ of Habeas Corpus to call for the records relating to the detention order passed against her husband under Tamil Nadu Act 14 of 1982 vide detention order dated 25.04.2007 on the file of the 2nd respondent in proceedings BDFGISV No.25 of 2007, quash the same as illegal and consequently direct the respondents to produce detenu Baskaran @ Keeri Baskar before this Court and set him at liberty.

4. We have perused the materials available on record and considered the submissions made by the counsel appearing on either side.

5. On examining the records, we find that, while making remand requisition before Judicial Magistrate No.1, Kancheepuram, the Sponsoring Authority referred to adverse case Nos.4 to 8 in Cr. Nos.5 of 2007, 52 of 2007, 158 of 2007, 141 & 142 of 2007 and also the ground case in Cr. No.177 of 2006, however, remand order was passed only in respect of the ground case. Apart from that, the detention order states that there is real possibility of the detenu coming out on bail by filing bail application, while the fact remains that there are no details available on record to show whether or not the detenu was remanded in respect of those adverse cases also by independent orders of the Magistrate. Therefore, we are of the view that the subjective satisfaction arrived at by the Detaining Authority is vitiated as a result of non-application of mind on the part of the Detaining Authority to the above fact. Consequently, the impugned order of detention is liable to be quashed .

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Accordingly, the Habeas Corpus Petition is allowed and the order of detention passed by the second respondent in the proceedings dated 25.04.2007 against the detenu is quashed the and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case or cause.

JI.

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Govt.,
   Prohibition & Excise Department,
   Secretariat,Chennai 9.

2. The District Collector and
   District Magistrate,
   Kancheepuram District.

3. The Superintendent,Central Prison
   Puzhal, Chennai.66
   (in duplicate for communcation to detenu)

4. The Joint Secretary to Government
   Public (Law & Order) Department
   Fort St, George, Chennai.9.

5. The Public Prosecutor,
   High Court, Madras.

+ 1 cc to Mr.C.C.Chellappan Advocate SR.NO.59834

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AD(CO)
RD 17.10.07

HCP No.922 of 2007.

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